

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of:</b>	)	
	)	
<b>Rules and Regulations Implementing</b>	)	<b>CG Docket No. 02-278</b>
<b>The Telephone Consumer Protection Act</b>	)	
<b>Of 1991</b>	)	<b>CC Docket No. 92-90</b>
	)	

**COMMENTS OF INTRADO INC.**

Pursuant to the Notice of Proposed Rulemaking and Memorandum and Order (NPRM)<sup>1</sup> released September 18, 2002, Intrado Inc. (Intrado)<sup>2</sup> respectfully submits these comments in response to the Federal Communications Commission's (Commission) request for comments on whether it should revise its rules restricting telemarketing calls. Additionally, the Commission seeks comment on the option of establishing a national do-not-call list.

For reasons discussed below, Intrado submits that the competing interests of individuals and telemarketers can be successfully balanced and offers the Commission its assistance in developing sound public policy to that effect. Additionally, Intrado urges the Commission to establish a national do-not-call list.

---

<sup>1</sup> Notice of Proposed Rulemaking and Memorandum and Order, "Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991", FCC 02-278, rel. September 18, 2002.

<sup>2</sup> Intrado (NasdaqNM: TRDO) is the nation's leading provider of sophisticated solutions that identify, manage and deliver mission critical information for telecommunications providers and public safety organizations.

## **DISCUSSION**

In its NPRM, the Commission seeks comment on the need and manner in which the interests of legitimate telemarketing practices are balanced with the public interest to protect consumer privacy. The Commission also seeks comment on the establishment of a national do-not-call list and how that list might supplant or supplement states' do-not-call lists or the national do-not-call registry recently proposed by the Federal Trade Commission (FTC).

Intrado acknowledges the difficult challenges inherent in balancing the preservation of individuals' personal information against the rights of telemarketers. An examination of current rules and policies governing the protection and use of personal information yields disparate collection, access and disclosure practices. Intrado supports the efforts of the Commission to review and improve upon those practices while protecting both consumers' privacy rights and the rights of telemarketers.

In addition to the myriad of policy challenges facing the Commission on this issue, the Commission also faces unique opportunities for developing compromises between the telemarketers' use of personal information and the need to protect individual privacy. Today's private and public databases contain an increasingly vast amount of personal information. It would behoove the Commission to develop a public policy framework that provides appropriate rules for third party access to individual personal information while allowing the individual to actively participate in what information is collected and how that information is used.

## **REGULATORS SHOULD DEVELOP A BALANCED POLICY FRAMEWORK**

The Commission has a ripe opportunity to develop predictable, consistent and clear guidelines that maximize consumer privacy rights while minimizing the burdens placed on

companies to whom personal information has been released. The Commission should develop and implement fair information principles and technical tools that foster individual control over personal information.

Individual's expectations of privacy regarding their personal information are constantly being challenged in today's marketplace. Privacy breaches may result from practices that deny individuals the ability to control how, when, and under what circumstances their data is collected and used. Other breaches may be the result of outdated laws and regulations that do not keep pace with technological advances. Whatever the cause, it is in the interest of all stakeholders to develop a consistent and flexible framework for privacy protection.

The development of clear guidelines should take into consideration what information qualifies as personal information, who owns that personal information and what are their rights, and who qualifies as a user of personal information and what rights do they enjoy vis-à-vis the owners of the personal information. The Commission should also consider policy to address the rights of other private individuals and organizations that have access to that personal information.

Furthermore, any policy developed and implemented by this Commission should be neutral as to technology. Advances in technology are exponential in their growth and the Commission would be wise to not dictate a single solution. Policy for the collection of information that is based on a certain technology limits growth, innovation and flexibility. It has the potential to create ineffective rules that are quickly obsolete. Commission policy should retain enough flexibility to absorb the anticipated advances the future will undoubtedly bring to technology.

### **CONSUMER CONSENT TO USE OF PERSONAL INFORMATION**

Regulators can ensure privacy protection by developing policy that empowers individuals to make meaningful decisions about the flow of their personal information. While it is critical to protect personal information, it is equally important that users of that information have access to it upon the individual's consent and that the information be used for the reasons it was collected. This consent and proper use will ensure accountability on the part of the users of the personal information and will engender trust on the part of the individual who releases the information. It is imperative that the FCC weighs the appropriateness of access to personal information in order to balance the competing interests of information availability and individual privacy.

Intrado believes that the use of new and improved technologies will enable individuals to exercise greater control over the collection and use of their personal information. Personal control over one's information would allow users of that personal information to actively influence individuals to consent to the right to use that data. As discussed above, strong privacy policies coupled with the deployment of secure databases, provide adequate safeguards such that individuals can successfully control the use of their personal information.

Intrado cautions the Commission to maintain its distinct and separate policy regarding data collected for emergency response information and the data collected for non-emergency purposes. Location database information collected for emergency situations should be readily available to responders even absent consumer consent.

### **THE NEED FOR A NATIONAL DO-NOT-CALL LIST**

In an effort to balance the interests of individual privacy against the need of the telemarketer to successfully reach the consuming public, the Commission adopted rules requiring

the establishment of company-specific do-not-call lists. Under this approach telemarketers are required to maintain their own lists of consumers who have expressly requested not to receive further solicitations.

For a number of reasons listed in the NPRM, the Commission now questions the overall effectiveness of this approach and whether the establishment of a national do-not-call list would be a better solution to address the problem of unsolicited telemarketing. Company-specific do-not-call lists place a greater onus on consumers to take measures to remove their names from solicitations. Telemarketers can continue to contact consumers until the consumer makes it expressly known to the telemarketer that they wish to have their name removed. Additionally, consumers must make their desires known to every telemarketing firm.

Intrado believes that a national do-not-call list is preferred to the current solution. This registry would allow consumers to stop the unwelcome and unwanted solicitation by telemarketers through the use of an easy, straightforward, and unencumbered mechanism to remove their names from telemarketing lists. A national do-not-call list would provide a single database for all telemarketing firms that would allow consumers to choose in advance whether they want to be contacted.

Intrado would suggest that the FTC proposed do-not-call registry be integrated into a single national do-not-call registry in order to avoid consumer confusion and to avoid having the consumer tasked with the responsibility of multiple input points. Likewise, without abandoning the efforts already in place throughout the states, the various states' do-not-call registries can also be integrated into a national registry. The conditions of use mandated by each state can be incorporated and enforced at the national registry. This would allow consumers to register at either the state level or the national level and be afforded the same level of privacy protection.

### **OTHER CONSIDERATIONS**

In addition to considering a national do-not-call list, the Commission ought to give consideration to the creation of a when-to-call list. A when-to-call list helps to strike the balance between telemarketing firms interests and consumer privacy concerns by putting the consumer in control of who solicits and under what conditions, without cutting off access from telemarketers altogether. The when-to-call registry can be easily created by expanding the scope of the data tracked by the do-not-call registry. This expanded scope would allow consumers to decide under what set of circumstances they would welcome a telephone solicitation. For example, if a consumer is in the market to purchase real estate, that consumer might welcome telephone solicitations from realtors, mortgage bankers, moving companies, etc. for a controlled period of time.

Secondly, the Commission must also take into consideration the issue concerning the integrity of the data contained in the national registry. In order for the registry to reflect accurate and current consumer data, there must be a mechanism in place that updates the national registry regarding changes to consumers' telephone numbers and other personal information. Changes to consumer data, such as service migration or disconnection, should be noted in the national registry on a timely basis. Data integrity is critical or the national registry has no value.

Thirdly, the Commission must also consider how a national registry, whether it's a do-not-call or a when-to-call, should be funded. Consumer participation in a national registry is a function of the cost of that participation. A variety of funding mechanisms exist, including telemarketer funded, consumer funded, public funded, service provider funded or a combination

of these funding sources. Intrado recommends that a combination of funding sources include a small registry fee from the consumer.

### **CONCLUSION**

Intrado believes that the Commission is in a unique position to clearly develop parameters for the collection, use and disclosure of personal information that protects both the rights of individuals and allows database providers to use the information for the purposes for which it is collected. Additionally, Intrado believes that the Commission should abandon its current use of the company-specific do-not-call lists and instead adopt a national do-not-call registry.

Respectfully Submitted,

/s/

---

Martha Jenkins  
Director, Regulatory Affairs  
Intrado Inc.  
1225 I Street NW #500  
Washington, DC 20005  
Telephone: (202) 312-2019  
Facsimile: (202) 785-2649

Dated: November 22, 2002